

REMARKS

Claims 1-21 are rejected under 35 U.S.C § 103(A) as obvious over Takahashi et al. (U.S. 5,999,162) (hereafter 'Takahashi') in view of Venolia (U.S. 2008/0204477) (hereafter 'Venolia'). In this Response, Applicants present remarks demonstrating that the claims are now in condition for allowance. Applicants respectfully traverse each rejection individually and request reconsideration of the claims in view of these remarks.

The independent claims 1, 8, and 15 recite in pertinent part:

representing real time data in a graphical format on a display,

a user positionable icon as a portion of the display, and

refreshing the graphical representation responsive to receiving a new data point, wherein the position of the icon determines how much historical data is retained in the refreshed display.

Regarding these elements of the independent claims, the Office Action indicates:

Takahashi et al. teaches an icon as a portion of the display (winding-up position, Figure 10) determining the position of the icon (predetermined) and refreshing the graphical representation responsive to receiving a new data point (Column 4, lines 45-53), wherein the position of the icon determines how much historical data is retained in the refreshed display (Column 2, lines 11-20). While Takahashi et al. teaches refreshing the display where the amount of information to be retained is based on a user determined position, ...

Applicants respectfully submit in response that these indications regarding Takahashi are literally, word-for-word, the position taken regarding Takahashi on page 3 of the Examiner's Answer in the appeal of this case, the Examiner's Answer dated June 18,

2007, before the Board Of Patent Appeals And Interferences ('BPAI'). In its decision of November 19, 2008, in this case, the BPAI, in rejecting the Examiner's arguments on appeal, effectively ruled that, in fact:

- Takahashi does not teach an icon as a portion of the display,
- Takahashi does not teach determining the position of the icon,
- Takahashi does not teach refreshing the graphical representation responsive to receiving a new data point,
- Takahashi does not teach wherein the position of the icon determines how much historical data is retained in the refreshed display, and
- Takahashi does not teach refreshing the display where the amount of information to be retained is based on a user determined position.

All of these matters are *res judicata*, settled by judgment of the BPAI, not subject to further dispute here. As a practical matter in this case, Takahashi is effectively no longer available as a reference against the claims of the present case.

Regarding Venolia, the Office Action indicates that Venolia teaches "a user-positionable icon as a portion of the display controlling the amount of information to be retained onscreen (Figure 5 with corresponding text and par. 47, 81)." The portions of Venolia apparently relied upon by the Examiner here disclose at most a user-variable timeline (par. 47) and a display of a selected video frame (par. 81), none of which teaches or suggests the position of any icon determining, upon receiving a new data point, how much historical data is retained on a real time graphical display as claimed here.

Thus it is seen that the independent claims are patentable over Takahashi and Venolia under 35 U.S.C. § 103 . Regarding the dependent claims, Applicants respectfully submit

that each dependent claim includes all of the elements and limitations of the independent claim from which it depends. And all of the independent claims include the limitations discussed above that are *not* taught or suggested by the combination of Takahashi and Venolia. The independent claims therefore are patentable under 35 U.S.C. § 103 for the same reasons as the independent claims.

Conclusion

The claims are shown in present remarks to be allowable under 35 U.S.C. § 103 because the combination of Takahashi and Venolia does not teaches or suggest all the elements of the claims. Claims 1-21 therefore are patentable and should be allowed. Applicants respectfully request reconsideration of claims 1-21 in view of these remarks.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 50-0563 for any fees required or overpaid.

Respectfully submitted,

Date: July 8, 2009

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